

# **North Smithfield Zoning Board of Review**

**January 27, 2009, 7:00 pm**

**Kendall Dean School**

**83 Greene Street, Slatersville**

## **1. Roll Call**

**Present: Bill Juhr, Vincent Marcantonio, Stephen Kearns, Steven Scarpelli, Guy Denizard, Mario DiNunzio, Paul Pasquariello. Also present were Building Official Bob Benoit, Assistant Solicitor William Savastano, and stenographer Shelly Deming from Allied Court Reporters.**

**2. Disclosure of no compensation or pension credits received by the board members.**

**3. Continued application of Joe Jenks (owner Mary Zurowski), requesting to construct a building to be used as a religious institution, which requires a Special Use Permit, per section 5.4.4, subsection 5. Locus is 1054 Victory Highway, Plat 1, Lots 141 & 151.**

**The Chair opened up discussion and asked if any Board members would like to comment on the application. Mr. Kearns thanked the applicant for providing the Board with requested information in order to give the Board the best opportunity to make an informed decision.**

He referred to section 9.2 of the Zoning Ordinance, which outlines the criteria for granting a Special Use Permit. He stated that most of the criteria were adequately addressed by the applicant and its witnesses. However, Mr. Kearns stated that he still has concerns with ingress and egress to the property, particularly with regard to possible fire and catastrophe (emergency vehicles). He is also concerned with the general compatibility with the adjacent properties and the properties in the district. He stated that while the applicant has testified that kingdom halls have been built in like neighborhoods in the state, he feels that the property has a narrow lot and the proposed building and parking lot doesn't seem to fit. Mr. Kearns stated that if the lot had double the width, it would provide safer ingress and egress and better buffering to neighbors.

Mr. DiNunzio stated that historically, the addition of religious institutions is good for a community, but he shares Mr. Kearns' concerns, especially with regard to traffic safety. He stated that while the area could prove to be accident-free, his concern is that if there are accidents, they could be fatal. He feels that enough concerns have been raised about safety during the course of the testimony.

Mr. Denizard stated that he is familiar with AASHTO regulations and has many concerns with the standards used in the traffic study. He stated that the study used the minimum standards, which are not absolute values, and he remains very concerned with safety issues.

**Mr. Juhr stated that he agrees with Mr. Kearns, Mr. DiNunzio, and Mr. Denizard. He added that he is concerned that with the lot being long and narrow and without enough frontage to provide two entrances, there is not adequate room to alleviate stacking of traffic turning left into the property. He stated that the stopping distances didn't seem sufficient, with no margin for error; it is barely making it through the guidelines. Mr. Juhr's other concerns included the drinking water and wells of abutters, with a parking lot proposed up to the property line, the asphalt will be within feet of both neighbors' wells.**

**The Chair stated that this application presented a tough decision, and thus he has taken the time to go over every aspect and every fact to consider the pros and cons. With regard to AASHTO standards, he stated that he reviewed testimony from another application, in which the Board approved a day care center. He stated that in that application, Mr. Juhr asked about truck traffic and the engineer in that application stated that trucks were accounted for in the traffic study. The Chair read from the minutes of the Zoning Board of Review meeting, August 19, 2008. The Chair said that he had asked in this hearing about trucks and the applicant didn't really look into this. Though the applicant's testimony did state that the driver of a truck sits higher, the Chair stated that he had looked into AASHTO standards and read from a document (Chapter 3 Elements of Design from AASHTO–Geometric Design of Highways and Streets). He stated that though minimum standards are met, truck analysis will exceed these minimum standards. He also referred to the**

document's section on Decision Sight Distance and recommended values for below average drivers and reaction time in difficult situation. He stated that design sight distances are longer than stopping sight distance. He stated that he fears that sight distance is inadequate when unexpected or unusual circumstances are factored in. He added that it is quite obvious when including trucks that there is not enough sight distance. He stated that when looking at the road profile, the grade at the property level causes the sight distance to lose several inches. He also stated that sight distance is lost because of the curvature of the road.

The Chair stated that he agrees that the kingdom hall is a needed service in town, but looking at facts, he wouldn't want people to be injured, and he needs to base his decision on facts. He stated that in considering the application he looked at key words in the testimony, and things like "basically" meeting standards, level of service F, not enough room for 2 entrances, stand out and he can't see how these problems can be remedied.

(NOTE: PLEASE SEE ATTACHED FOR THE CHAIR'S FULL COMMENTS.)

Mr. Kearns added that when considering the possibility of future development, including a Stop and Shop which was figured into the calculations, as well as the vacant lot next to Dunkin' Donuts and the property next to the vacant lot, he sees a great deal of potential

development, and the Board has to look long range to the neighborhood in the future. He stated that in the years to come, he does not want to see a big mess like Mineral Spring Avenue in North Providence. He added that he thinks the Chair did a fantastic job analyzing the facts and testimony of the application.

Mr. DiNunzio made a motion to deny the application of Joe Jenks (owner Mary Zurowski), requesting to construct a building to be used as a religious institution, which requires a Special Use Permit, per section 5.4.4, subsection 5 (Locus: 1054 Victory Highway, Plat 1, Lots 141 & 151), based on findings of facts to be detailed in the written decision. Mr. Denizard seconded the motion. Roll call vote was as follows: YES: Mr. Dinunzio, Mr. Denizard, Mr. Kearns, Mr. Juhr, Mr. Marcantonio. The motion passed, with a vote of 5-0. Special use permit was denied.

Mr. DiNunzio made a motion to take a 5-minute recess at 7:35 pm. The motion was seconded by the Chair, with all in favor.

The Chair called the meeting back to order at 7:40 pm. Mr. Kearns made a motion to adjourn the formal session of the meeting at 7:40 pm, seconded by Mr. Scarpelli, with all in favor.

#### **4. Workshop--Informal Session (Discussion of Use Tables)**

The Board held a brief discussion on the proposed changes to the use tables. The town has hired consultants who are working on

changes to the current use tables. The Board would like input on the changes and explanation from the consultants on their proposed changes. Mr. Kearns made a motion that the Board request the consultants, Mr. Flaherty (interim Town Planner), and/or members of the Ordinance Review Committee to come before the Zoning Board to explain the proposed changes and to provide the Board an opportunity to give input on the changes. Mr. Savastano suggested getting a copy of the grant to see the scope of the work the consultants are hired to do. Mr. Juhr seconded the motion, with all in favor.

Mr. Kearns made a motion to adjourn the workshop session at 7:55 pm. Mr. Scarpelli seconded the motion, with all in favor.

**FULL COMMENTS ON the continued application of Joe Jenks (owner Mary Zurowski), requesting to construct a building to be used as a religious institution, which requires a Special Use Permit, per section 5.4.4, subsection 5, (Locus is 1054 Victory Highway, Plat 1, Lots 141 & 151), by CHAIR VIN MARCANTONIO:**

Last time we had a meeting I knew we were faced with a very difficult decision, so in my mind, I'm going to look at every aspect and look at

every fact. I'd like to tell you what I did and every fact I looked at and where there are pros and where there are cons and what brought my attention to the fact that we needed the AASHTO standards to confirm some of the things that were quoted were based on one of the applications that we had on the same day we listened to this particular case. This was a case where we approved a daycare center on Pound Hill Road and basically the recommendation and I'll read it to you "The Chair asked about the depth of vision in taking a left out of the property. Mr. Bannon stated the sight distance will be 425 ft. when cleared, as has been recommended by the traffic study. The requirement is 350 ft. for the posted speed limit, but the 425 ft. is based on actual speeds (43 mph) Minimum requirement based on speed him. Mr. Bannon stated that there is adequate safe access for the proposed uses, with the improvement suggested in the original application. There will be no adverse impacts or detriments in the safety in the area." What bothered me here was they're going 43 mph; their 85th percentile is based on 43 mph and they have to go 425 feet, and at that particular point, Mr. Juhr asked them if they brought in the trucks and traveling at slow speeds and all that sort of thing. Mr. Bannon stated that this is accounted for and they made recommendations based on this. Their particular recommendations and their distances had trucks included, so we followed that through all the times we had hearings; we kept asking about instances of trucks and trucks not figured into equations, stopping sight distances. So in this particular case that we hear tonight, no data is based on trucks. They said that; it's in our record, and I can give you

what page if we need it. So it was my understanding that I guess they didn't really want to look into that because it's quite obvious that trucks take longer to stop. They did tell us, well, you know, the guy's (the driver of the truck) a little bit higher and has greater vision. So, that was one of the reasons we looked into the AASHTO standards—to see what they would say about trucks, and they have a lot to say about trucks.

They say “although the average truck driver tends to be more experienced than the average passenger car driver and quicker to recognize potential risk, it is desirable under certain conditions to provide stopping sight distances that exceed the value of exhibit 3-1 or 3-2.” And in those, that's what we're making. In other words, right now we're at minimum, we made it, we met it, we're short, but we made it. And if you do the truck analysis it will exceed what you have for your sight distance, because we only have basically 15 feet or 12 feet, depending on who you listen to or which way you read it. They say there's 375 feet and the engineer said approximately 390 feet, so that's 15 feet to play with. The other people said 387 feet, I think that was Commonwealth Engineering, but we're still 375, so that makes it a little bit less. So you can see every distance is very important here.

We didn't stop there; that was just one item. We wanted to look at some other items. We want to understand what they meant by recommended values, again, stopping sight distance should be at



least the needed for a below average driver of a vehicle, and I know this part by heart, so I don't have to read it. They go in and they tell you all these things that were analyzed and how they were done in a laboratory and they go from some people in the .04 second to 3.5 seconds, in their reaction times (how long it takes them to apply their brakes). They did recommend that they use 2.5 seconds, but not only do they recommend 2.5, but they also tell you that in difficult situations there's a need for greater reaction time in most complex conditions encountered in the roadway, such as those found in multiphase at-grade intersections and ramp terminals. They have another thing they go into, what they call a section on Decision Sight Distances, which are longer distances than the so-called stopping sight distances. It goes on and on, so basically all the fears we had about "do we have enough distance to make it safe?" based on data we heard from other engineers, and we can't correlate the two when this guy has 425 ft. at 43 mph and this one here we only need 375 ft. at 45.2 mph. It's quite a discrepancy, that's why I really paid attention to this. So, we read a little bit further and it said on decision sight distances: "these distances are often inadequate when drivers must make complex or instantaneous decisions, when information is difficult to perceive, or when unexpected or unusual maneuvers are required...It is evident that there are many locations where it would be prudent to provide longer sight distances. In these circumstances, decision sight distance provides the greater visibility distance that drivers need." So it all depends on how you look at it and what distances and where your safety level is, but definitely

you'd be over if you include the trucks, it's quite obvious with the data that we had here.

We wanted more information, so we looked at all kinds of things, because possible while we're analyzing this, they could be buying the house next door and they would have adequate distance. Then we looked at the road profile. The road profile was taken from the center of the road which is more than elevation and I have it here; we have the road profile, and so people understand this, you start off with 3.5 feet and then they look at something 2 ft. in the road. Then they measure their sight distances so the road profile shows that at elevation they were at 3.5 and then they went 390 feet. Now this is done in the middle of the road so they could see something 2 feet in the road. That's great, but then when you analyze when you're leaving this driveway, the elevation said the drain is at 299.64 and the property level is at grade 300, so between the top of the road and in the gutter there is about 8, 9, 10 inches; so let's say 7-10 inches. That makes the sight distance when you're sitting in the gully, in the low spot, looking towards the hill, we lost a few inches; you've lost about 6-7 inches, and that's very important because when you look at the profile and the guy gives you where they took it from, if you're a little bit lower, that means your distances are even going to be less because of the curvature of the road. So it's much shorter at that particular level, but then you know, you could always raise this and raise that, so we tried to analyze every particular aspect of it to see what you could really get out of this whole thing.

We looked at how many people were visiting the sight. They said 54 people, then last time went to 46 vehicles. The previous level for people leaving the church would be a D and this time projected out would be an F. Quoting from page 8 where the consultant said the degradation of traffic service is for the people who would be exiting the parking lot of the church, well, it will also have an effect on the safety of the neighbors leaving and entering their property when they have a service level as presented to us.

They came and said they meet most of the sight distances, well you know the word "most," but the 85th percentile speed they're a little short. How do you get this 85th percentile speed? I looked in the chart and it told me there were 40 cars between 3:30 and 4:20 pm. So I asked, how do you get 40 cars, how do you do this? They take their radar gun and push it down toward where the cars are coming from and they take one reading on one group of cars, not each car. At that time of day there had to be a school bus involved in this traffic and that had to distort something, but that's OK, so we're using their figures at 85 percentile and we still had problems, with margin of distances. We don't have trucks involved in that and we know that would make a lot longer.

Then I also want to understand about how they did the study and how they did the cars. A lot of cars, like sports cars are short, so the driver's level isn't going to be a 3.5 ft., so I tried to figure out what

would happen if I use the 85th percentile, so that means 15 percent of the cars are going to be exceeding the speed limit and going more than 45.2 mph. They have no room to spare; the margin of error is like nil. So there's 15 percent of the cars you're going to have a problem with. We looked into how they came out with the time, which varied from a fraction of a second to 3.7 seconds and used 90th percentile, which is good, but it still means that 10 percent of the people who exceed that 2.5 reaction time and some go up to 3.7 seconds, which means that people who are going very slow or going below the 85th percentile, which is 45.2 mph, and we have the other people who can't break in time, because even if they're going slow, their reaction time is at the 10th percentile.

So you can see why it's important to have this safety range and why they say you should put some of these things in your figures or you should use the decision sight distances, which is longer than the stopping distance or sight distance. You have sight distance which is the shortest thing, you have decision sight distance, which is the longer, then you have the grades to contend with, then you have the trucks to contend with. I'm trying to figure, did we miss something? I went over everything and into things when they didn't want to answer the question about trucks, I can understand it because if you had to make a longer sight distance, they wouldn't have enough property to put their property because it would have to be longer. I looked real hard to see what else, because it's a needed service in town, there's no question about it. We have people in town who would love to not

travel to Mendon or wherever they are traveling right now, but we also have to feel real comfortable that I did as much research as I could and that the decision would be based on facts. And I'm looking at facts. We wouldn't want people to go in there and get injured or cause accidents without realizing it just because they tried to get something in, and they did get it in if you use these figures, but if you leave a few things out, they didn't get it in. They didn't use trucks, decision sight distances, they got it in because they used sight distances. So what is the right thing? I looked at key words: "We didn't make it," "we're short 11 feet," "basically addressed these concerns," "degradation," and "short," "level of service F." There will be 1-2 minutes for people exiting, the consultant suggested a dual exit but you can't because there's not enough room, so unless they had more room in that property, or if they had the house next door to add more property where they would be able to have more vision. It's a problem; I can't see how we can solve it on paper knowing all the facts that I know now by getting all this data.